

Virginia Administrative Code

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Part I

4VAC50-60-10. Definitions.

The following words and terms used in this chapter have the following meanings unless the context clearly indicates otherwise.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

"Administrator" means the Administrator of the United States Environmental Protection Agency or an authorized representative.

"Applicable standards and limitations" means all state, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA) (33 USC §1251 et seq.) and the Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and standards for sewage sludge use or disposal under §§301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.

"Approval authority" means the Virginia Soil and Water Conservation Board or their designee.

"Approved program" or "approved state" means a state or interstate program that has been approved or authorized by EPA under 40 CFR Part 123 (2000).

"Aquatic bench" means a 10- to 15-foot wide bench around the inside perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

"Average land cover condition" means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16%. Note that a locality may opt to calculate actual watershed-specific values for the average land cover condition based upon 4VAC50-60-110.

"Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

"Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

"Best management practice (~~BMP~~)" or "BMP" means schedules of activities, prohibitions of practices, including both a structural or nonstructural practice, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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"Bioretention basin" means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, ground cover), planting soil, and sand bed, and into the in-situ material.

"Bioretention filter" means a bioretention basin with the addition of a sand filter collector pipe system beneath the planting bed.

"Board" means the Virginia Soil and Water Conservation Board.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Channel" means a natural or manmade waterway.

"Constructed wetlands" means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

"Construction activity" means any clearing, grading, or excavation associated with large construction activity or associated with small construction activity.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906).

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

"Control measure" means any best management practice or other method used to prevent or reduce the discharge of pollutants to surface waters.

"~~Co-permittee operator~~" means a ~~permittee operator~~ to a VSMP permit that is only responsible for permit conditions relating to the discharge for which it is the operator.

"Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"CWA and regulations" means the Clean Water Act (CWA) and applicable regulations published in the Code of Federal Regulations (CFR) promulgated thereunder. For the purposes of this chapter, it includes state program requirements.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

"Department" means the Department of Conservation and Recreation.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

"Direct discharge" means the discharge of a pollutant.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

"Discharge," when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

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1. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or

2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Discharge Monitoring Report (DMR) or "DMR" means the form supplied by the department, or an equivalent form developed by the permittee operator and approved by the board, for the reporting of self-monitoring results by permittees operators.

"Draft permit" means a document indicating the board's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. A proposed permit is not a draft permit.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into surface waters, the waters of the contiguous zone, or the ocean.

"Effluent limitations guidelines" means a regulation published by the administrator under §304(b) of the CWA to adopt or revise effluent limitations.

"Environmental Protection Agency (EPA) or "EPA" means the United States Environmental Protection Agency.

"Existing permit" means for the purposes of this chapter a permit issued by the permit-issuing authority and currently held by a permit applicant.

"Existing source" means any source that is not a new source or a new discharger.

"Facilities or equipment" means buildings, structures, process or production equipment or machinery that form a permanent part of a new source and that will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the new source or water pollution treatment for the new source.

"Facility or activity" means any VSMP point source or treatment works treating domestic sewage or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the VSMP program.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

"General permit" means a VSMP permit authorizing a category of discharges under the CWA and the Act within a geographical area.

"Grassed swale" means an earthen conveyance system which is broad and shallow with erosion resistant grasses and check dams, engineered to remove pollutants from stormwater runoff by filtration through grass and infiltration into the soil.

"Hazardous substance" means any substance designated under the Code of Virginia and 40 CFR Part 116 (2000) pursuant to §311 of the CWA.

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135 "Hydrologic Unit Code" or "HUC" means watershed units established in the most recent
136 version of Virginia's 6th Order National Watershed Boundary Dataset.

137 "Illicit discharge" means any discharge to a municipal separate storm sewer that is not
138 composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit
139 (other than the VSMP permit for discharges from the municipal separate storm sewer),
140 discharges resulting from fire fighting activities, and discharges identified by and in compliance
141 with 4VAC50-60-1220 C 2.

142 "Impervious cover" means a surface composed of any material that significantly impedes
143 or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited
144 to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel
145 surface.

146 "Incorporated place" means a city, town, township, or village that is incorporated under
147 the Code of Virginia.

148 "Indian country" means (i) all land within the limits of any Indian reservation under the
149 jurisdiction of the United States government, notwithstanding the issuance of any patent, and
150 including rights-of-way running through the reservation; (ii) all dependent Indian communities
151 with the borders of the United States whether within the originally or subsequently acquired
152 territory thereof, and whether within or without the limits of a state; and (iii) all Indian
153 allotments, the Indian titles to which have not been extinguished, including rights-of-way
154 running through the same.

155 "Indirect discharger" means a nondomestic discharger introducing "pollutants" to a
156 "publicly owned treatment works".

157 "Individual control strategy" means a final VSMP permit with supporting documentation
158 showing that effluent limits are consistent with an approved wasteload allocation or other
159 documentation that shows that applicable water quality standards will be met not later than three
160 years.

161 "Infiltration facility" means a stormwater management facility that temporarily impounds
162 runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility
163 may also be equipped with an outlet structure to discharge impounded runoff, such discharge is
164 normally reserved for overflow and other emergency conditions. Since an infiltration facility
165 impounds runoff only temporarily, it is normally dry during nonrainfall periods. Infiltration
166 basin, infiltration trench, infiltration dry well, and porous pavement shall be considered
167 infiltration facilities.

168 "Inspection" means an on-site review of the project's compliance with the permit, the
169 local stormwater management program, and any applicable design criteria, or an on-site review
170 to obtain information or conduct surveys or investigations necessary in the enforcement of the
171 Act and this chapter.

172 "Interstate agency" means an agency of two or more states established by or under an
173 agreement or compact approved by Congress, or any other agency of two or more states having
174 substantial powers or duties pertaining to the control of pollution as determined and approved by
175 the administrator under the CWA and regulations.

176 "Land disturbance" or "land-disturbing activity" means a manmade change to the land
177 surface that potentially changes its runoff characteristics including any clearing, grading, or
178 excavation associated with a construction activity regulated pursuant to the federal Clean Water
179 Act, the Act, and this chapter.

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"Large construction activity" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the latest decennial census by the Bureau of Census (40 CFR Part 122 Appendix F (2000));
2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;
3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:
 - a. Physical interconnections between the municipal separate storm sewers;
 - b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;
 - c. The quantity and nature of pollutants discharged to surface waters;
 - d. The nature of the receiving surface waters; and
 - e. Other relevant factors.
4. The board may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in this definition.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.

"Local stormwater management program" or "local program" means a statement of the various methods employed by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, permit requirements, policies and guidelines, technical materials, inspection, enforcement, and evaluation consistent with the Act and this chapter. The ordinance shall include provisions to require the control of after-development stormwater runoff rate of flow, the proper maintenance of stormwater management facilities, and minimum administrative procedures.

"Locality" means a county, city, or town.

"Major facility" means any VSMP facility or activity classified as such by the regional administrator in conjunction with the board.

"Major modification" means, for the purposes of this chapter, the modification or amendment of an existing permit before its expiration that is not a minor modification as defined in this regulation.

"Major municipal separate storm sewer outfall (or major outfall)" means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36

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inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), with an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of two acres or more).

"Manmade" means constructed by man.

"Maximum daily discharge limitation" means the highest allowable daily discharge.

"Maximum extent practicable" or "MEP" means the technology-based discharge standard for municipal separate storm sewer systems established by CWA §402(p). MEP is achieved, in part, by selecting and implementing effective structural and non structural BMPs and rejecting BMPs only when the BMPs would not be technically feasible or the cost would be prohibitive and unreasonable. MEP is an iterative standard, which evolves over time as urban runoff management knowledge increases. As such, the permittee's MS4 program must continually be assessed and modified to incorporate improved programs, control measures, best management practices (BMPs), etc. to maintain compliance with water quality standards.

"Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000 as determined by the latest decennial census by the Bureau of Census (40 CFR Part 122 Appendix G (2000));

2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;

3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:

a. Physical interconnections between the municipal separate storm sewers;

b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;

c. The quantity and nature of pollutants discharged to surface waters;

d. The nature of the receiving surface waters; or

e. Other relevant factors.

4. The board may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in subdivisions 1, 2 and 3 of this definition.

"Minor modification" means, for the purposes of this chapter, minor modification or amendment of an existing permit before its expiration as specified in 4VAC50-60-640. Minor modification for the purposes of this chapter also means other modifications and amendments not requiring extensive review and evaluation including, but not limited to, changes in EPA

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promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

"Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known as a municipal separate storm sewer system, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

1. Owned or operated by a federal, state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction or delegated authority for erosion and sediment control and stormwater management, or a designated and approved management agency under §208 of the CWA that discharges to surface waters;

2. Designed or used for collecting or conveying stormwater;

3. That is not a combined sewer; and

4. That is not part of a publicly owned treatment works.

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1.

"Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act and regulations and the Virginia Stormwater Management Act and attendant regulations, using management practices, control techniques, and system, design and engineering methods, and such other provisions that are appropriate.

"Municipality" means a city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §208 of the CWA.

"National Pollutant Discharge Elimination System (~~NPDES~~)" or "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under §§307, 402, 318, and 405 of the CWA. The term includes an approved program.

"New discharger" means any building, structure, facility, or installation:

1. From which there is or may be a discharge of pollutants;

2. That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;

3. Which is not a new source; and

4. Which has never received a finally effective VPDES or VSMP permit for discharges at that site.

This definition includes an indirect discharger that commences discharging into surface waters after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins

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discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979.

"New permit" means, for the purposes of this chapter, a permit issued by the permit-issuing authority to a permit applicant that does not currently hold and has never held a permit of that type, for that activity, at that location.

"New source," means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

1. After promulgation of standards of performance under §306 of the CWA that are applicable to such source; or

2. After proposal of standards of performance in accordance with §306 of the CWA that are applicable to such source, but only if the standards are promulgated in accordance with §306 of the CWA within 120 days of their proposal.

"Nonpoint source pollution" means pollution such as sediment, nitrogen and phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Nonpoint source pollutant runoff load" or "pollutant discharge" means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

"Operator" means the owner or operator of any facility or activity subject to regulation under the VSMP program. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

"Outfall" means, when used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other surface waters and are used to convey surface waters.

"Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

"Owner" means the Commonwealth or any of its political subdivisions including, but not limited to, sanitation district commissions and authorities, and any public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of §62.1-44.5 of the Code of Virginia, the Act and this chapter.

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"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" means an approval issued by the permit-issuing authority for the initiation of a land-disturbing activity or for stormwater discharges from an MS4. Permit does not include any permit that has not yet been the subject of final permit-issuing authority action, such as a draft permit or a proposed permit.

"Permit-issuing authority" means the board, the department, or a locality that is delegated authority authorized by the board to issue, deny, revoke, terminate, or amend stormwater permits under the provisions of the Act and this chapter.

"Permittee" means the person or locality to which the permit is issued, including any operator whose construction site is covered under a construction general permit.

"Person" means any individual, corporation, partnership, ~~firm~~, association, ~~joint venture~~, ~~public or private or municipal corporation~~, trust, estate, state, municipality, commission, ~~board~~, ~~public or private institution~~, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, ~~any~~ a state, governmental body (including but not limited to a federal, state, or local entity), ~~any~~ interstate ~~or governmental~~ body or any other legal entity.

"Planning area" means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

"Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC §2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well used either to facilitate production or for disposal purposes is approved by the board and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state

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waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Pre-development" refers to the conditions that exist at the time that plans for the land development of a tract of land are approved by the plan approval authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

"Privately owned treatment works (PVOTW)" or "PVOTW" means any device or system that is (i) used to treat wastes from any facility whose operator is not the operator of the treatment works and (ii) not a POTW.

"Proposed permit" means a VSMP permit prepared after the close of the public comment period (and, when applicable, any public hearing and administrative appeals) that is sent to EPA for review before final issuance. A proposed permit is not a draft permit.

"Publicly owned treatment works (POTW)" or "POTW" means a treatment works as defined by §212 of the CWA that is owned by a state or municipality (as defined by §502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in §502(4) of the CWA, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"Recommencing discharger" means a source that recommences discharge after terminating operations.

"Regional administrator" means the Regional Administrator of Region III of the Environmental Protection Agency or the authorized representative of the regional administrator.

"Regional (watershed-wide) stormwater management facility" or "regional facility" means a facility or series of facilities designed to control stormwater runoff from a specific watershed, although only portions of the watershed may experience land development.

"Regional (watershed-wide) stormwater management plan" or "regional plan" means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

"Revoked permit" means, for the purposes of this chapter, an existing permit that is terminated by the board before its expiration.

"Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Sand filter" means a contained bed of sand that acts to filter the first flush of runoff. The runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or infiltrated into the in-situ soils.

"Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act, the CWA and regulations.

"Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

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"Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Shallow marsh" means a zone within a stormwater extended detention basin that exists from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area and, therefore, requires a reliable source of baseflow, groundwater supply, or a sizeable drainage area, to maintain the desired water surface elevations to support emergent vegetation.

"Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under §101(14) of CERCLA (42 USC §9601(14)); any chemical the facility is required to report pursuant to §313 of Title III of SARA (42 USC §11023); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"Single jurisdiction" means, for the purposes of this chapter, a single county or city. The term county includes incorporated towns which are part of the county.

"Site" means the land or water area where any facility or activity is physically located or conducted, a parcel of land being developed, or a designated planning area in which the land development project is located.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, or equal to or greater than 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the board that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

2. Any other construction activity designated by the either the board or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

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"Small municipal separate storm sewer system" or "small MS4" means all separate storm sewers that are (i) owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §208 of the CWA that discharges to surface waters and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highway and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

"Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants.

"State" means the Commonwealth of Virginia.

"State/EPA agreement" means an agreement between the regional administrator and the state that coordinates EPA and state activities, responsibilities and programs including those under the CWA and the Act.

"State project" means any land development project that is undertaken by any state agency, board, commission, authority or any branch of state government, including state-supported institutions of higher learning.

"State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater detention basin" or "detention basin" means a stormwater management facility that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater discharge associated with construction activity" means a discharge of pollutants in stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

"Stormwater discharge associated with large construction activity" means the discharge of stormwater from large construction activities.

"Stormwater discharge associated with small construction activity" means the discharge of stormwater from small construction activities.

"Stormwater extended detention basin" or "extended detention basin" means a stormwater management facility that temporarily impounds runoff and discharges it through a

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hydraulic outlet structure over a specified period of time to a downstream conveyance system for the purpose of water quality enhancement or stream channel erosion control. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility's design. Since an extended detention basin impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Stormwater extended detention basin-enhanced" or "extended detention basin-enhanced" means an extended detention basin modified to increase pollutant removal by providing a shallow marsh in the lower stage of the basin.

"Stormwater management facility" means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document containing material for describing how existing runoff characteristics will be maintained by a land-disturbing activity and methods for complying with the requirements of the local program or this chapter.

"Stormwater Management Program" means a program established by a locality that is consistent with the requirements of the Virginia Stormwater Management Act, this chapter and associated guidance documents.

"Stormwater Pollution Prevention Plan" (SWPPP) or "plan SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the construction site or its associated land-disturbing activities. In addition the document shall describe and ensure the implementation of best management practices, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an erosion and sediment control plan, a post-construction stormwater management plan, a spill prevention control and countermeasure (SPCC) plan, and other practices that will be used to reduce pollutants in stormwater discharges from land-disturbing activities and to assure compliance with the terms and conditions of this chapter. All plans incorporated by reference into the SWPPP shall be enforceable under the permit issued.

"Stormwater retention basin" or "retention basin" means a stormwater management facility that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff inflows may be temporarily stored above this permanent impoundment for the purpose of reducing flooding, or stream channel erosion.

"Stormwater retention basin I" or "retention basin I" means a retention basin with the volume of the permanent pool equal to three times the water quality volume.

"Stormwater retention basin II" or "retention basin II" means a retention basin with the volume of the permanent pool equal to four times the water quality volume.

"Stormwater retention basin III" or "retention basin III" means a retention basin with the volume of the permanent pool equal to four times the water quality volume with the addition of an aquatic bench.

"Subdivision" means the same as defined in §15.2-2201 of the Code of Virginia.

"Surface waters" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

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- 593 2. All interstate waters, including interstate wetlands;
594 3. All other waters such as intrastate lakes, rivers, streams (including intermittent
595 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or
596 natural ponds the use, degradation, or destruction of which would affect or could affect interstate
597 or foreign commerce including any such waters:
598 a. That are or could be used by interstate or foreign travelers for recreational or
599 other purposes;
600 b. From which fish or shellfish are or could be taken and sold in interstate or
601 foreign commerce; or
602 c. That are used or could be used for industrial purposes by industries in interstate
603 commerce.
604 4. All impoundments of waters otherwise defined as surface waters under this definition;
605 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
606 6. The territorial sea; and
607 7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified
608 in subdivisions 1 through 6 of this definition.

609 Waste treatment systems, including treatment ponds or lagoons designed to meet the
610 requirements of the CWA and the law, are not surface waters. Surface waters do not include
611 prior converted cropland. Notwithstanding the determination of an area's status as prior
612 converted cropland by any other agency, for the purposes of the Clean Water Act, the final
613 authority regarding the Clean Water Act jurisdiction remains with the EPA.

614 "Total dissolved solids" means the total dissolved (filterable) solids as determined by use
615 of the method specified in 40 CFR Part 136 (2000).

616 "Total maximum daily load" or "TMDL" means the sum of the individual waste load
617 allocations for point sources, load allocations (LAs) for nonpoint sources, natural background
618 loading and usually a safety factor. TMDLs can be expressed in terms of either mass per time,
619 toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint
620 source trade-offs.

621 "Toxic pollutant" means any pollutant listed as toxic under §307(a)(1) of the CWA or, in
622 the case of sludge use or disposal practices, any pollutant identified in regulations implementing
623 §405(d) of the CWA.

624 "Upset" means an exceptional incident in which there is unintentional and temporary
625 noncompliance with technology based permit effluent limitations because of factors beyond the
626 reasonable control of the ~~permittee-operator~~. An upset does not include noncompliance to the
627 extent caused by operational error, improperly designed treatment facilities, inadequate treatment
628 facilities, lack of preventive maintenance, or careless or improper operation.

629 "Variance" means any mechanism or provision under §301 or §316 of the CWA or under
630 40 CFR Part 125 (2000), or in the applicable effluent limitations guidelines that allows
631 modification to or waiver of the generally applicable effluent limitation requirements or time
632 deadlines of the CWA. This includes provisions that allow the establishment of alternative
633 limitations based on fundamentally different factors or on §301(c), §301(g), §301(h), §301(i), or
634 §316(a) of the CWA.

635 "Vegetated filter strip" means a densely vegetated section of land engineered to accept
636 runoff as overland sheet flow from upstream development. It shall adopt any natural vegetated
637 form, from grassy meadow to small forest. The vegetative cover facilitates pollutant removal

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through filtration, sediment deposition, infiltration and absorption, and is dedicated for that purpose.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

"Virginia Stormwater Management Act" or "Act" means Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Virginia Stormwater Management Program (VSMP)" means the Virginia program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing requirements pursuant to the federal Clean Water Act, the Virginia Stormwater Management Act, this chapter, and associated guidance documents.

"Virginia Stormwater Management Program (VSMP) permit" means a document issued by the permit-issuing authority pursuant to the Virginia Stormwater Management Act and this chapter authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters. Under the approved state program, a VSMP permit is equivalent to a NPDES permit.

"VSMP application" or "application" means the standard form or forms, including any additions, revisions or modifications to the forms, approved by the administrator and the board for applying for a VSMP permit.

"Wasteload allocation" or "Wasteload" or "WLA" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Water quality standards" or "WQS" means narrative statements that describe water quality requirements in general terms, and of numeric limits for specific physical, chemical, biological or radiological characteristics of water. These narrative statements and numeric limits describe water quality necessary to meet and maintain reasonable and beneficial uses such as swimming and, other water based recreation, public water supply and the propagation and growth of aquatic life. The adoption of water quality standards under the State Water Control Law is one of the board's methods of accomplishing the law's purpose.

"Water quality volume" means the volume equal to the first 1/2 inch of runoff multiplied by the impervious surface of the land development project.

"Watershed" means a defined land area drained by a river or stream, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

4VAC50-60-1200. Definitions.

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The words and terms used in this part shall have the meanings defined in the Act and this chapter unless the context clearly indicates otherwise, except that for the purposes of this part:

“Date brought on line” means the date when the operator determines that a new stormwater management facility is properly functioning to meet its designed pollutant load reduction.

~~“Infiltration” means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.~~

~~“Inflow” means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.~~

“MS4 Program Plan” means the completed registration statement and all approved additions, changes and modifications detailing the comprehensive program implemented by the operator under this permit to reduce the pollutants in the stormwater discharged from its municipal separate storm sewer system (MS4) that has been submitted and accepted by the Director.

“Physically interconnected” means that a MS4 directly discharges to a second MS4.

4VAC50-60-1210. Purpose; delegation of authority; effective date of the permit.

A. This VSMP general permit regulation governs stormwater discharges from regulated small municipal separate storm sewer systems (regulated small MS4s) to surface waters of the Commonwealth of Virginia.

1. Unless the MS4 qualifies for a waiver under subdivision 3 of this subsection, owners are regulated if they operate a small MS4, including but not limited to systems operated by federal, state, tribal, and local governments, including the Virginia Department of Transportation; and:

a. The small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. If the small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated; or

b. The small MS4 is designated by the board, including where the designation is pursuant to 40 CFR Part 123.35 (b)(3) or (b)(4) (2001), or is based upon a petition under 4VAC50-60-380 D. Unless granted a waiver, the Board, on a case by case basis, shall designate any small MS4 located outside of an urbanized area that contributes substantially to the pollutant loadings of a physically interconnected MS4 that is permitted.

2. An MS4 may be the subject of a petition pursuant to 4VAC50-60-380 D to the board to require a VSMP permit for their discharge of stormwater. If the board determines that an MS4

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- 717 needs a permit and the owner applies for coverage under this general permit, the owner is
718 required to comply with the requirements of 4VAC50-60-1210.
- 719 3. The board may waive the requirements otherwise applicable to a small MS4 if it meets the
720 criteria of subdivision 4 or 5 of this subsection. If a waiver is received under this subsection, the
721 owner may subsequently be required to seek coverage under a VSMP permit in accordance with
722 4VAC50-60-400 C 1 if circumstances change. (See also 40 CFR Part 123.35 (b) (2001))
- 723 4. The board may waive permit coverage if the MS4 serves a population of less than 1,000
724 within the urbanized area and meets the following criteria:
- 725 a. The system is not contributing substantially to the pollutant loadings of a physically
726 interconnected MS4 that is regulated by the VSMP stormwater program; and
- 727 b. If pollutants are discharged that have been identified as a cause of impairment of any water
728 body to which the MS4 discharges, and stormwater controls are not needed based on wasteload
729 allocations that are part of a State Water Control Board established and EPA approved "total
730 maximum daily load" (TMDL) that addresses the pollutants of concern.
- 731 5. The board may waive permit coverage if the MS4 serves a population under 10,000 and meets
732 the following criteria:
- 733 a. The ~~board~~ State Water Control Board has evaluated all surface waters, including small
734 streams, tributaries, lakes, and ponds, that receive a discharge from the MS4;
- 735 b. For all such waters, the board has determined that stormwater controls are not needed based on
736 wasteload allocations that are part of a State Water Control Board established and EPA approved
737 TMDL that addresses the pollutants of concern or, if a TMDL has not been developed and
738 approved, an equivalent analysis that determines sources and allocations for the pollutants of
739 concern;
- 740 c. For the purpose of this subdivision, the pollutants of concern include biochemical oxygen
741 demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids,
742 turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a
743 cause of impairment of any water body that will receive a discharge from the MS4; and
- 744 d. The board has determined that future discharges from the MS4 do not have the potential to
745 result in exceedances of water quality standards, including impairment of designated uses, or
746 other significant water quality impacts, including habitat and biological impacts.
- 747 B. This general permit will become effective on ~~December 9, 2002~~ July 1, 2008, and will expire
748 five years from the effective date.
- 749 4VAC50-60-1220. Authorization to discharge.

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A. Any ~~owner~~ operator governed by this general permit is hereby authorized to discharge stormwater from the regulated small MS4 to surface waters of the Commonwealth of Virginia provided that the ~~owner~~ operator files and receives acceptance of the registration statement of 4VAC50-60-1230 by the director, files the permit ~~fee~~ fees required by Part XIII (4VAC50-60-700 et seq.) of this chapter, and provided that the ~~owner~~ operator shall not have been required to obtain an individual permit according to 4VAC50-60-410 B.

B. The ~~owner~~ operator shall not be authorized by this general permit to discharge to state waters specifically named in other State Water Control Board or board regulations or policies that prohibit such discharges.

C. Nonstormwater discharges or flows into the MS4 are authorized by this permit and do not need to be addressed in the ~~Stormwater Management~~ MS4 Program required under 4VAC50-60-1240, Section II B 3, if:

1. The nonstormwater discharges or flows are covered by a separate individual or general VPDES or VSMP permit for nonstormwater discharges; ~~or~~

2. The individual nonstormwater discharges or flows have been identified in writing by the Department of Environmental Quality as **de minimis** discharges that are not significant sources of pollutants to state waters and do not require a VPDES permit;

3. Nonstormwater discharges or flows in the following categories have not been identified by the ~~permittee~~ operator, State Water Control Board, or by the board as significant contributors of pollutants to the regulated small MS4: water line and hydrant flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from fire fighting activities; or

4. The discharge of materials resulting from a spill is necessary to prevent loss of life, personal injury, or severe property damage. The operator shall take, or **ensure** that the responsible party takes, all reasonable steps to minimize or prevent any adverse effect on human health or the environment. This permit does not transfer liability for a spill itself from the party(ies) responsible for the spill to the operator nor relieve the party(ies) responsible for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302 (2001).

In the event the permittee is unable to meet certain conditions of this permit due to circumstances beyond the permittee's control, a written explanation of the circumstances that prevented permit compliance shall be submitted to DCR in the annual report. Circumstances beyond the control of the permittee may include abnormal climatic conditions; weather conditions that make certain requirements unsafe or impracticable; or unavoidable equipment failures caused by weather conditions or other conditions beyond the reasonable control of the permittee (operator error is not a condition beyond the control of the permittee). The failure to provide adequate program

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789 funding, staffing or equipment maintenance shall not be an acceptable explanation for failure to
790 meet permit conditions. The Board will determine, at its sole discretion, whether the reported
791 information will result in an enforcement action.

792
793 D. Discharges that are excluded from obtaining a VSMP permit pursuant to 4VAC50-60-300 are
794 exempted from the regulatory requirements of this permit.

795
796 E. Pursuant to 40 CFR Part 122.34 (c) (2001), for those portions of an MS4 that are covered
797 under a VPDES permit for industrial stormwater discharges, the operator shall register for this
798 VSMP general permit in accordance with 4VAC 50-60-1230 but shall follow the pollutant
799 control requirements of the VPDES permit. Upon termination of VPDES permit coverage,
800 discharges from previously VPDES authorized outfalls shall meet the conditions of this permit
801 provided it has been determined by the board that an individual MS4 permit is not required.

802
803 F. Stormwater discharges from specific MS4 outfalls that have been granted conditional
804 exclusion for “no exposure” of industrial activities and materials to stormwater under the
805 VPDES permitting program shall obtain coverage under this VSMP general permit. The
806 Department of Environmental Quality is responsible for determining compliance with the
807 conditional exclusion under the State Water Control Law and attendant regulations.

808 ~~DG.~~ Receipt of this VSMP general permit does not relieve any owner of the responsibility to
809 comply with any other applicable federal, state or local statute, ordinance or regulation.

810 4VAC50-60-1230. Permit application (registration statement).

811 A. Deadline for submitting a registration statement

812 ~~1. Owners of regulated small MS4's designated under 4VAC50-60-1210 A 1 a, that are applying~~
813 ~~for coverage under this VSMP general permit must submit a complete Registration Statement to~~
814 ~~the department by March 10, 2003, unless the MS4 serves a jurisdiction with a population under~~
815 ~~10,000 and the board has established a schedule for phasing in permit coverage with a final~~
816 ~~deadline of March 8, 2007.~~

817 ~~2~~ 1. ~~Owners~~ Operators of regulated small MS4's MS4s designated under 4VAC50-60-1210 A 1
818 b, that are applying for coverage under this VSMP general permit must submit a complete
819 registration statement to the department within 180 days of notice of designation, unless the
820 board grants a later date.

821 2. In order to continue uninterrupted coverage under the VSMP general permit, operators of
822 regulated small MS4s shall submit a new registration statement at least 90 days before the
823 expiration date of the existing permit, unless permission for a later date has been granted by the
824 board. The board shall not grant permission for registration statements to be submitted later than
825 the expiration date of the existing permit.

826 B. Registration statement.

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827 The registration statement shall include the following information:

828 1. The name and location (county or city name) of the regulated small MS4 for which the
829 registration statement is submitted;

830 2. The name, type (city, county, incorporated town, unincorporated town, college or university,
831 local school board, military installation, transportation system, federal or state facility, or other),
832 and address, and telephone number of the ~~owner~~ operator of the regulated small MS4;

833 3. The name(s) of the Hydrologic Unit Code as identified in the most recent version of Virginia's
834 6th Order National Watershed Boundary Dataset (available online at
835 http://www.dcr.virginia.gov/soil_&_water/hu.shtml) currently receiving discharges or that have
836 potential to receive discharges from the regulated small MS4 ~~water(s)~~;

837 4. ~~The best management practices (BMPs) that the owner or another entity proposes to~~
838 ~~implement for each of the stormwater minimum control measures at 4VAC50-60-1240, Section~~
839 ~~II-B;~~

840 4. The estimated drainage area, in acres, served by the regulated small MS4 discharging to any
841 impaired receiving surface waters listed in the most recent Virginia 305(b)/303(d) Water Quality
842 Assessment Integrated Report, and a description of the land use of each such drainage area.

843 5. Any TMDL waste loads allocated to the regulated small MS4. This information may be found
844 at: <http://www.deq.state.va.us/tmdl/develop.html>;

845 5. ~~The measurable goals for each of the BMPs including, as appropriate, the years in which the~~
846 ~~required actions will be undertaken, including interim milestones and the frequency of the action;~~
847 ~~and~~

848 6. The name(s) of any regulated physically interconnected MS4s to which the regulated small
849 MS4 discharges.

850 6. ~~The person or persons responsible for implementing or coordinating the stormwater~~
851 ~~management program.~~

852 7. A copy of the MS4 Program Plan that includes:

853
854 a. A list of **BMPs** that the operator proposes to implement for each of the stormwater minimum
855 control measures and their associated measurable goals pursuant to 4VAC50-60-1240, Section II
856 B; that includes:

857
858 i. A list of the existing policies, ordinances, schedules, inspection forms, written procedures, and
859 other documents necessary for BMP implementation; and

860
861 ii. The individual, department, division, or unit responsible for implementing the BMP;
862

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b. The objective and expected results of each BMP in meeting the measurable goals of the stormwater minimum control measures;

c. The implementation schedule including any interim milestones for the utilization implementation of a proposed new BMP; and

d. The method that will be utilized to determine the effectiveness of each BMP and the program as a whole.

8. A list of all existing signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures.

9. The name, address, telephone number and e-mail address of either the principal executive officer or ranking elected official as defined in 4VAC50-60-370.

10. The name, position title, address, telephone number and e-mail address of any duly authorized representative as defined in 4VAC50-60-370.

7 11. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. The registration statement shall be signed by the principal executive officer or ranking elected official in accordance with 4VAC50-60-370.

D. An ~~owner operator~~ may file ~~his~~ its own registration statement, or the ~~owner operator~~ and other ~~municipalities or governmental entities~~ operators of regulated small MS4s may jointly submit a registration statement. If responsibilities for meeting the stormwater minimum control measures will be shared with other municipalities or governmental entities, the registration statement must describe which stormwater minimum control measures the ~~owner operator~~ will implement and identify the entities that will implement the other stormwater minimum control measures within the area served by the MS4.

E. Where to submit. The registration statement shall be submitted to ~~DCR's Urban Program's~~ Section of the Division of Soil and Water Conservation.

Department of Conservation and Recreation
Division of Soil and Water Conservation
Stormwater Permitting
203 Governor Street, Suite 206

904 Richmond, VA 23219

905

906 4VAC50-60-1240. General permit.

907 Any owner whose registration statement is accepted by the director will receive coverage under
908 the following permit and shall comply with the requirements therein and be subject to all
909 applicable requirements of the Virginia Stormwater Management Act (Chapter 6, Article 1.1
910 (§10.1-603.1 et seq.) of Title 10.1 of the Code of Virginia) and the Virginia Stormwater
911 Management Program (VSMP) Permit Regulations (4VAC50-60).

912 General Permit No.: ~~DCR02~~ VAR04

913 Effective Date: ~~December 9, 2002~~ July 1, 2008

914 Expiration Date: ~~December 9, 2007~~ June 30, 2013

915 GENERAL PERMIT FOR ~~STORMWATER~~-DISCHARGES OF STORMWATER FROM
916 SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

917 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER
918 MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT

919 In compliance with the provisions of the Clean Water Act, as amended and pursuant to the
920 Virginia Stormwater Management Act and regulations adopted pursuant thereto, this permit
921 authorizes operators of small municipal separate storm sewer systems to discharge to surface
922 waters within the boundaries of the Commonwealth of Virginia, except those waters specifically
923 named in State Water Control Board and Virginia Soil and Water Conservation Board
924 regulations or policies which prohibit such discharges.

925 The authorized discharge shall be in accordance with this cover page, Section I—Discharge
926 Authorization and Special Conditions, Section II—~~Stormwater Management Program~~ MS4
927 Program and Section III—Conditions Applicable To All VSMP Permits, as set forth herein.

928 SECTION I

929 DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS

930 A. Coverage under this permit. During the period beginning with the date of coverage under this
931 general permit and lasting until the permit's expiration date, the ~~permittee~~ operator is authorized
932 to discharge stormwater from the small municipal separate storm sewer system identified in the
933 registration statement.

934 B. Special Conditions.

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1. Total Maximum Daily Load (TMDL) allocations. If a TMDL is approved for any waterbody into which the small MS4 discharges, the board will review the TMDL to determine whether the TMDL includes requirements for control of stormwater discharges. If discharges from the MS4 are not meeting the TMDL allocations, the board will notify the permittee of that finding and may require that the Stormwater Management Program required in Section II be modified to implement the TMDL within a timeframe consistent with the TMDL. Any such new requirement will constitute a case decision by the board.

A Total Maximum Daily Load (TMDL) approved by the State Water Control Board may include a wasteload allocation to the regulated small MS4 that identifies the pollutant for which stormwater controls are necessary for the surface waters to meet water quality standards. The pollutant identified in a waste load allocation must be addressed through the measurable goals of the MS4 Program Plan. A wasteload allocation does not establish that the operator of a regulated small MS4 is out of compliance with the conditions of this permit.

1. The operator shall update its MS4 Program Plan to include measurable goals, schedules, and strategies to ensure MS4 Program consistency with the TMDL pursuant to the following schedule:

a. Within 18-months of permit coverage for wasteloads allocated to the regulated small MS4 by the State Water Control Board prior to permit coverage; or,

b. Within 18-months of approval by the State Water Control Board for wasteloads allocated to the regulated small MS4 after issuance of permit coverage.

2. The measurable goals, schedules, and strategies required in an updated MS4 Program Plan to assure MS4 Program consistency with an approved TMDL for the pollutant identified in a WLA are, at a minimum:

a. The operator shall develop a list of its current ordinances and legal authorities, policies, plans, procedures and contracts implemented as part of the MS4 Program that are applicable to reducing the pollutant identified in a WLA.

b. The operator shall evaluate existing ordinances and legal authorities, policies, plans, procedures and contracts of the existing MS4 Program to determine the effectiveness of the MS4 Program to address reduction of the pollutant identified in the WLA. The evaluation shall identify any weakness or limitation in the MS4 Program to reduce the pollutant identified in the WLA in a manner consistent with the TMDL.

c. The operator shall develop a schedule to implement procedures and strategies to address the MS4 Program weaknesses including a timetable to update the existing ordinances and legal authorities, policies, plans, procedures and contracts to ensure consistency with the TMDL. When possible, source elimination shall be prioritized over load reduction.

3. The operator shall implement the schedule established in Section 1.B.1.a.(iii).

980 4. The operator shall integrate an awareness campaign into its existing public education and
981 outreach program that promotes methods to eliminate and reduce discharges of the pollutant
982 identified in the WLA. This may include additional employee training regarding the sources and
983 methods to eliminate and minimize the discharge of the pollutant identified in the WLA.

984
985 5. The operator is encouraged to participate as a stakeholder in the development of any
986 Implementation Plans developed to address the TMDL and shall incorporate applicable BMPs
987 identified in the TMDL implementation plan in their MS4 Program Plan.

988
989 6. The operator shall develop and implement outfall reconnaissance procedures to identify and
990 eliminate the discharge of the pollutant identified in the WLA from anthropogenic activities.
991 The operator shall annually conduct reconnaissance on 50 of its known MS4 outfalls discharging
992 to the surface water for which the WLA has been assigned. If the operator has less than 50
993 outfalls discharging to the surface water for which the WLA has been assigned then
994 reconnaissance shall be conducted on all outfalls annually. The Department recommends that
995 the operator review the publication entitled "Illicit Discharge Detection and Elimination: A
996 Guidance Manual for Program Development and Technical Assessments", EPA cooperative
997 agreement number X-82907801-0, for guidance in implementing its outfall reconnaissance
998 procedures.

999
1000 7. The operator shall develop and implement a schedule to evaluate all facilities including, but
1001 not limited to, buildings, parks, maintenance yards and storage facilities owned and/or operated
1002 by the MS4 operator for potential sources of the pollutant identified in the WLA within three
1003 years of the completed update to the MS4 Program Plan. The evaluation shall include a site
1004 inspection. The operator shall sample runoff from a municipal facility where it determines that
1005 the pollutant identified in the WLA is currently stored, or has been transferred, transported or
1006 historically disposed of in a manner that would expose it to precipitation for the pollutant
1007 identified in the WLA in accordance the following schedule:

1008
1009 a. The operator shall collect a minimum of two samples from a representative outfall for each
1010 identified municipal facility during each of the following six-month periods: October through
1011 March, and April through September.

1012
1013 b. All collected samples shall be grab samples and collected within the first thirty minutes of a
1014 runoff producing event that is greater than 0.1 inches in magnitude and that occurs at least 72
1015 hours from the previous measurable (greater than 0.1 inch rainfall) storm event. The required
1016 72-hour storm event interval is waived where the preceding measurable storm event did not
1017 result in a measurable discharge from the facility. The required 72-hour storm event interval
1018 may also be waived where the permittee documents that less than a 72-hour interval is
1019 representative for local storm events during the season when sampling is being conducted.
1020 Analytical methods shall be conducted according to procedures approved under 40 CFR Part 136
1021 or alternative methods approved by the U.S. Environmental Protection Agency. Where an
1022 approved 40 CFR Part 136 method does not exist, the operator must use a method consistent
1023 with the TMDL.

c. For facilities where there is a found to be a discharge of the pollutant identified in the WLA, the operator shall develop and implement a schedule to minimize the discharge of the pollutant identified in the WLA in a manner consistent with the approved TMDL

8. The operator shall provide an annual characterization that estimates the volume of stormwater discharged, in gallons, and the quantity of pollutant identified in the WLA, in a unit consistent with the WLA, discharged by the regulated small MS4.

9. As part of the annual evaluation, the operator shall update the MS4 Program Plan to include any new information regarding the TMDL in order to ensure consistency with the TMDL.

10. Along with reporting requirements in Section II. E., the operator shall include the following with each annual report:

a. Copies of any updates to the MS4 Program Plan completed during the reporting cycle and any new information regarding the TMDL in order to evaluate its ability to assure the consistency of its discharge with the WLA.

b. The estimate of the volume of stormwater discharged, in gallons, and the quantity of pollutant identified in the WLA, in a unit consistent with the WLA discharged by the regulated small MS4 for each WLA.

~~2. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the stormwater discharge(s) from the small MS4 shall be prevented or minimized to the maximum extent practicable in accordance with the applicable Stormwater Management Program required in Section II. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) or 40 CFR Part 302 (2002) occurs during a 24-hour period, the permittee is required to notify the Department of Environmental Quality and the Department of Conservation and Recreation in accordance with the requirements of Section III G as soon as he has knowledge of the discharge. In addition, the Stormwater Management Program required under Section II of this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the program must be modified where appropriate. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or §62.1-44.34:19 of the Code of Virginia.~~

SECTION II

STORMWATER MANAGEMENT MS4 PROGRAM

A. The ~~permittee~~ operator of a regulated small MS4 must develop, implement, and enforce a ~~stormwater management~~ MS4 program designed to reduce the discharge of pollutants from the regulated small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act and regulations and the Virginia Stormwater Management Act and attendant regulations. The ~~stormwater management~~ MS4 program must include the minimum control measures described in paragraph B of this section. For purposes of this section, narrative effluent limitations requiring implementation of

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1067 best management practices (BMPs) are generally the most appropriate form of effluent
1068 limitations when designed to satisfy technology requirements (including reductions of pollutants
1069 to the maximum extent practicable) and to protect water quality. Implementation of best
1070 management practices consistent with the provisions of the ~~stormwater management~~ MS4
1071 program required pursuant to this ~~Part~~ section constitutes compliance with the standard of
1072 reducing pollutants to the "maximum extent practicable-" and protects water quality in the
1073 absence of a TMDL waste load allocation. Upon issuance of a WLA the requirements of this
1074 section and those special conditions set out in Section I B apply. The stormwater management
1075 program must be developed and implemented in accordance with the Act by July 1, 2006, or by a
1076 later date if specified by the board.

1077 Within 180 days of the effective date of this general permit, the operator shall review its existing
1078 MS4 Program Plan and submit a schedule to develop and implement programs to meet the
1079 conditions established by this permit. For owners of regulated small MS4s that are applying for
1080 initial coverage under this general permit, the schedule to develop and implement the MS4
1081 Program Plan shall be submitted with the completed registration statement.

1082 Prior to submittal of the MS4 Program plan and proposed schedule to the Department, each
1083 operator must provide public notification and provide for receipt of public comments. Public
1084 notice shall allow at least 30 days for public comment. Public notice shall be given by any
1085 method reasonably calculated to give actual notice of the action in question to the persons
1086 potentially affected by it, including press releases or any other forum or medium to elicit public
1087 participation. Copies of all comments received shall be submitted with the proposed schedule to
1088 the Department.

1089 B. Minimum control measures.

1090 1. Public education and outreach on stormwater impacts. Implement a public education program
1091 to distribute educational materials to the community or conduct equivalent outreach activities
1092 about the impacts of stormwater discharges on water bodies and the steps that the public can take
1093 to reduce pollutants in stormwater runoff. The operator may review the EPA publication entitled
1094 "Getting in Step: A Guide for Conducting Watershed Outreach Campaigns", publication number
1095 EPA 841-B-03-002, for guidance in developing a public education program.

1096 The operator shall identify, schedule, implement, evaluate and modify, as necessary, Best
1097 Management Practices to meet the following public education and outreach measurable goals:

1098 a. Increased individual and household knowledge about the steps that they can take to reduce
1099 stormwater pollution, placing priority on reducing impacts to impaired waters and other local
1100 water pollution concerns;

1101 b. Increased public employee, business, and general public knowledge of hazards associated with
1102 illegal discharges and improper disposal of waste, including pertinent legal implications;

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- 1103 c. Increased individual and group involvement in local water quality improvement initiatives
1104 including the promotion of local restoration and clean up projects, programs, groups, meetings
1105 and other opportunities for public involvement;
- 1106 d. Employ sufficiently diverse strategies to target audiences specific to the area serviced by the
1107 regulated small MS4;
- 1108 e. Tailor the outreach program to address viewpoints and concerns of target audiences,
1109 particularly minority and disadvantaged audiences as well as special concerns relating to
1110 children; and
- 1111 f. Target strategies towards local groups of commercial, industrial, and institutional entities
1112 likely to have significant stormwater impacts.
- 1113 2. Public involvement/participation. At a minimum, comply with applicable state, tribal, and
1114 local public notice requirements when implementing the ~~stormwater management~~ MS4 program.
- 1115 The operator shall identify, schedule, implement, evaluate and modify, as necessary, Best
1116 Management Practices to meet the following public involvement/participation measurable goals:
1117
- 1118 a. Promote the availability of the operator's MS4 Program Plan for public review and comment.
1119 Provide access to or copies of the MS4 Program Plan upon request of interested parties in
1120 compliance with all applicable freedom of information regulations;
1121
- 1122 b. Provide access to or copies of the annual report upon request of interested parties in
1123 compliance with all applicable freedom of information regulations;
1124
- 1125 c. Participate, through promotion, sponsorship, or other involvement, in local activities aimed at
1126 increasing public participation to reduce stormwater pollutant loads and improve water quality;
1127 and
1128
- 1129 d. Participate, at least as a stakeholder, in development of any TMDL Implementation Plan for
1130 waters to which the regulated small MS4 has been assigned a WLA.
1131
- 1132 3. Illicit discharge detection and elimination. This program shall:
- 1133 a. Develop, implement and enforce a program to detect and eliminate illicit discharges, as
1134 defined at 4VAC50-60-4200 10, into the regulated small MS4. The Department recommends
1135 that the operator review the publication entitled "Illicit Discharge Detection and Elimination: A
1136 Guidance Manual for Program Development and Technical Assessments", EPA cooperative
1137 agreement number X-82907801-0, for guidance in implementing and evaluating its illicit
1138 discharge detection and elimination program;
- 1139 b. ~~(4)~~ Develop, if not already completed, and maintain, an updated a storm sewer system map,
1140 showing the location of all ~~major~~ known outfalls of the regulated small MS4 including those

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1141 physically interconnected to a regulated MS4, and the names and location of all surface waters
1142 that receive discharges from those outfalls the associated HUCs, and the names and locations of
1143 all impaired surface waters that receive discharges from those outfalls. The operator shall also
1144 estimate the acreage within the regulated small MS4 discharging to each HUC and impaired
1145 water;

1146 (2) c. To the extent allowable under state, tribal or local law or other regulatory mechanism,
1147 effectively prohibit, through ordinance, or other regulatory mechanism, nonstormwater
1148 discharges into the storm sewer system and implement appropriate enforcement procedures and
1149 actions.

1150 The following categories of nonstormwater discharges or flows (i.e., illicit discharges) must be
1151 addressed only if they are identified by the operator, the State Water Control Board, or by the
1152 board as significant contributors of pollutants to the regulated small MS4: water line flushing,
1153 landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water
1154 infiltration, uncontaminated pumped ground water, discharges from potable water sources,
1155 foundation drains, air conditioning condensation, irrigation water, springs, water from crawl
1156 space pumps, footing drains, lawn watering, individual residential car washing, flows from
1157 riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water,
1158 discharges or flows from fire fighting activities, and flows that have been identified in writing by
1159 the Department of Environmental Quality as de minimis discharges that are not significant
1160 sources of pollutants to state waters and not requiring a VPDES permit;

1161 (3) d. Develop and implement a plan procedures to detect and address nonstormwater discharges,
1162 including illegal dumping, to the system regulated small MS4; and

1163 (4) Inform public employees, businesses, and the general public of hazards associated with
1164 illegal discharges and improper disposal of waste.

1165 e. The following categories of nonstormwater discharges or flows (i.e., illicit discharges) must be
1166 addressed only if they are identified by the permittee or by the board as significant contributors
1167 of pollutants to the small MS4: water line flushing, landscape irrigation, diverted stream flows,
1168 rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground
1169 water, discharges from potable water sources, foundation drains, air conditioning condensation,
1170 irrigation water, springs, water from crawl space pumps, footing drains, lawn watering,
1171 individual residential car washing, flows from riparian habitats and wetlands, dechlorinated
1172 swimming pool discharges, street wash water and discharges or flows from fire fighting
1173 activities.

1174 e. Prevent or minimize to the maximum extent practicable, the discharge of hazardous substances
1175 or oil in the stormwater discharge(s) from the regulated small MS4. In addition, the MS4
1176 Program must be reviewed to identify measures to prevent the recurrence of such releases and to
1177 respond to such releases, and the program must be modified where appropriate. This permit does
1178 not relieve the operator or the responsible part(ies) of any reporting requirements of 40 CFR Part
1179 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or §62.1-44.34:19 of the Code
1180 of Virginia; and

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1181 f. Track the number of illicit discharges identified and the number eliminated and submit the
1182 information in accordance with Section II.E.2.

1183 g. Notify, in writing, any downstream regulated MS4 to which the small regulated MS4 is
1184 physically interconnected of the small regulated MS4's connection to that system.

1185 4. Construction site stormwater runoff control.

1186 a. ~~Develop~~The operator shall develop, implement, and enforce a ~~program~~ procedures to reduce
1187 pollutants in any stormwater runoff to the regulated small MS4 from construction activities that
1188 result in a land disturbance of greater than or equal to one acre or equal to or greater than 2,500
1189 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay
1190 Preservation Area Designation and Management Regulations adopted pursuant to the
1191 Chesapeake Bay Preservation Act. Additionally, reduction of stormwater discharges from
1192 construction activity disturbing less than one acre must be included in the program if that
1193 construction activity is part of a larger common plan of development or sale that would disturb
1194 one acre or more. ~~If the board waives requirements for stormwater discharges associated with~~
1195 ~~small construction activity in accordance with the definition in 4VAC50-60-10, the permittee is~~
1196 ~~not required to develop, implement, and/or enforce a program to reduce pollutant discharges~~
1197 ~~from such sites.~~

1198 ~~b.~~The ~~program~~ procedures must include the development and implementation of, at a minimum:

1199 (1) An ordinance or other ~~regulatory~~ mechanism to require erosion and sediment controls, as
1200 well as sanctions to ensure compliance with the Erosion and Sediment Control Law and
1201 attendant regulations, to the extent allowable under state, tribal, or local law. Such ordinances
1202 and other mechanisms shall be updated as necessary;

1203 (2) Requirements for construction site operators to implement ~~appropriate erosion and sediment~~
1204 ~~control best management practices~~ an erosion and sediment control plan that is consistent with
1205 the Erosion and Sediment Control Law and attendant regulations and other applicable
1206 requirements of state, tribal, or local law;

1207 (3) Requirements for construction site operators to ~~control waste such as discarded building~~
1208 ~~materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site~~
1209 ~~that may cause adverse impacts to water quality; or procedures to ensure that construction site~~
1210 ~~operators have secured or will secure a~~ secure authorization to discharge stormwater from
1211 construction activities under a VSMP construction permit for construction activities that result in
1212 a land disturbance of greater than or equal to one acre or equal to or greater than 2,500 square
1213 feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation
1214 Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay
1215 Preservation Act. Additionally, reduction of stormwater discharges from construction activity
1216 disturbing less than one acre must be included in the procedures if that construction activity is
1217 part of a larger common plan of development or sale that would disturb one acre or more;

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- 1218 ~~(4) Procedures for site plan review which incorporate consideration of potential water quality~~
1219 ~~and quantity impacts and ensures compliance with the Chesapeake Bay Preservation Act as~~
1220 ~~implemented in Tidewater Virginia localities;~~
- 1221 (5 4) Procedures for receipt and consideration of information submitted by the public, and
- 1222 (6 5) Procedures for site inspection and enforcement of control measures to reduce pollutants
1223 from stormwater discharges associated with construction activities.
- 1224 b. The operator shall ensure that plan reviewers, inspectors, program administrators and
1225 construction site operators obtain the appropriate certifications as required under the Erosion and
1226 Sediment Control Law;
- 1227 ~~c. ~~Track~~ The operator shall track regulated land-disturbing activities and submit the following~~
1228 ~~information in accordance with Section II.E.2. for the reporting period with the annual report~~
1229 ~~required in Section II E 2:~~
- 1230 (1) Total number of regulated land-disturbing activities; and
- 1231 (2) Total disturbed acreage.
- 1232 5. Post-construction stormwater management in new development and redevelopment.
- 1233 ~~a. Develop~~ The operator shall develop, implement, and enforce a program procedures to address
1234 stormwater runoff to the regulated small MS4 from new development and redevelopment
1235 projects that disturb greater than or equal to one acre or equal to or greater than 2,500 square feet
1236 in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area
1237 Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation
1238 Act, including projects less than one acre that are part of a larger common plan of development
1239 or sale, that discharge into the small MS4. The program procedures must ensure that controls are
1240 in place that would prevent or minimize water quality and quantity impacts in accordance with
1241 this section.
- 1242 b. The operator shall:
- 1243 (1) Develop and implement strategies, which include a combination of structural and/or
1244 nonstructural best management practices (BMPs) appropriate for ~~your~~ the local community. The
1245 operator shall encourage the use of low impact development where determined appropriate by
1246 the operator;
- 1247 (2) Use an ordinance or other ~~regulatory~~ mechanism to address post-construction runoff from
1248 new development and redevelopment projects to ensure compliance with the Virginia
1249 Stormwater Management Act and attendant regulations, and to the extent allowable under state,
1250 tribal or local law. Such ordinances and other mechanisms shall be updated as necessary; and

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- 1251 (3) Require construction site operators to secure authorization to discharge stormwater from
1252 construction activities under a VSMP permit for new development and redevelopment projects
1253 that result in a land disturbance of greater than or equal to one acre or equal to or greater than
1254 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay
1255 Preservation Area Designation and Management Regulations adopted pursuant to the
1256 Chesapeake Bay Preservation Act. Additionally, reduction of stormwater discharges from
1257 construction activity disturbing less than one acre must be included in the procedures if that
1258 construction activity is part of a larger common plan of development or sale that would disturb
1259 one acre or more;
- 1260 (34) Ensure adequate long-term operation and maintenance by the owner of BMPs structural
1261 stormwater management facilities through requiring the owner to develop a recorded inspection
1262 schedule and maintenance agreement. The operator shall additionally develop, through the
1263 maintenance agreement or by ordinance or other method, a mechanism for enforcement of
1264 maintenance responsibilities by the operator if they are neglected by the owner ~~or some other~~
1265 ~~mechanism that achieves an equivalent objective.~~
- 1266 (5) Conduct site inspection and enforcement measures consistent with the Virginia Stormwater
1267 Management Act and attendant regulations;
- 1268 (4-6) ~~If the MS4 discharges to the Chesapeake Bay watershed, track~~ Track all known permanent
1269 ~~BMP's stormwater management facilities that discharge to the regulated small MS4 installed by~~
1270 ~~the MS4 (structural and nonstructural), and submit the following information with the annual~~
1271 ~~report required in Section II E.2 in accordance with Section II E.2.;~~
- 1272 (a) ~~Type of BMP's structural stormwater management facility installed, as defined in the Virginia~~
1273 ~~Stormwater Management Handbook;~~
- 1274 (b) ~~Geographic location (Hydrologic Unit Code HUC);~~
- 1275 (c) ~~Waterbody~~ Where applicable, the impaired surface water that the BMP's stormwater
1276 management facility is discharging into;
- 1277 (d) ~~Number of acres treated to the nearest one-tenth acre;~~
- 1278 (e) ~~Whether the BMP's is inspected or maintained; and~~
- 1279 (f) ~~How often the BMP's is maintained (quarterly, annually, etc.).~~
- 1280 (7) Track number of acres per HUC developed utilizing low impact development principles.
- 1281 6. Pollution prevention/good housekeeping for municipal operations. Develop and implement an
1282 operation and maintenance program that includes a training component and has the ultimate goal
1283 of preventing or reducing pollutant runoff from municipal operations. Using training materials
1284 ~~that are~~ including those available from EPA, state, tribe, or other organizations, the program
1285 ~~must~~ shall include employee training to prevent and reduce stormwater pollution from activities

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1286 such as park and open space maintenance, fleet and building maintenance, new construction and
1287 land disturbances, and ~~stormwater system~~ MS4 maintenance. The operator is encouraged to
1288 review EPA's National Menu of Stormwater Best Management Practices for ideas and strategies
1289 to incorporate into its program. The menu can be accessed at
1290 <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm>.

1291 a. The operator shall identify, implement, evaluate and modify, as necessary, Best Management
1292 Practices to meet the following pollution prevention/good housekeeping for municipal operations
1293 measurable goals:

1294 (1) Operation and maintenance programs including activities, schedules, and inspection
1295 procedures shall include provisions and controls to reduce pollutant discharges into the MS4;

1296 (2) Illicit discharges shall be eliminated from storage yards, fleet or maintenance shops, outdoor
1297 storage areas, rest areas, waste transfer stations, and other municipal facilities;

1298 (3) Waste materials shall be disposed of properly;

1299 (3-4) Materials that are soluble or erodible shall be protected from exposure to precipitation;

1300 (4-5) Materials, including but not limited to fertilizers and pesticides, that have the potential to
1301 pollute receiving surface waters shall be applied according to manufacturer's recommendations;
1302 and

1303 (5-6) For state agencies with lands where nutrients are applied, nutrient management plans shall
1304 be developed and implemented in accordance with the requirements of § 10.1-104.4 of the Code
1305 of Virginia.

1306 C. ~~Qualifying state, tribal or local program.~~ If an existing ~~qualifying local~~ program requires the
1307 implementation of one or more of the minimum control measures of Section II B, the ~~permittee~~
1308 ~~operator, with the approval of the board,~~ may follow that ~~qualifying~~ program's requirements
1309 rather than the requirements of Section II B. A ~~qualifying local~~ program is that may be
1310 considered includes but is not limited to a local, state or tribal ~~municipal stormwater~~
1311 ~~management~~ program that imposes, at a minimum, the relevant requirements of Section II B.

1312 The ~~permittee's operator's stormwater management program~~ MS4 Program Plan ~~must~~ shall
1313 identify and fully describe any ~~qualifying local~~ program that will be used to satisfy one or more
1314 of the minimum control measures of Section II B.

1315 If the ~~qualifying local~~ program the ~~permittee operator~~ is using requires the approval of a third
1316 party, the program must be fully approved by the third party, or the ~~permittee operator~~ must be
1317 working towards getting full approval. Documentation of the ~~qualifying local~~ program's approval
1318 status, or the progress towards achieving full approval, must be included in the annual report
1319 required by Section II E 2.

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1320 D. ~~Sharing responsibility~~. The permittee may rely on another entity to satisfy the VSMP permit
1321 obligations to implement a minimum control measure if: (i) the other entity, in fact, implements
1322 the control measure; (ii) the particular control measure, or component thereof, is at least as
1323 stringent as the corresponding VSMP permit requirement; and (iii) the other entity agrees to
1324 implement the control measure on behalf of the permittee operator. The agreement between the
1325 parties must be documented in writing and retained by the permittee operator with the
1326 ~~Stormwater Management~~ MS4 Program Plan for the duration of this permit.

1327 In the annual reports that must be submitted under Section II E 2, the permittee operator must
1328 specify that another entity is being relied on to satisfy some of the permit obligations.

1329 If the permittee operator is relying on another governmental entity regulated under 4VAC50-60-
1330 380 to satisfy all of the permit obligations, including the obligation to file periodic reports
1331 required by Section II E 2, the permittee operator must note that fact in the registration statement,
1332 but is not required to file the periodic reports.

1333 The permittee operator remains responsible for compliance with the permit obligations if the
1334 other entity fails to implement the control measure (or component thereof).

1335 E. Evaluation and assessment.

1336 1. Evaluation.

1337 a. The permittee operator must annually evaluate:

1338 (i) program compliance,

1339 (ii) the appropriateness of the identified best management practices, and

1340 (iii) progress towards achieving the identified measurable goals.

1341 b. The operator must evaluate its MS4 Program once during the permit cycle using the
1342 “Municipal Stormwater Program Evaluation Guidance”, EPA-833-R-07-003. Such information
1343 shall be utilized when reapplying for their permit coverage.

1344 2. Annual reports. The permittee operator must submit an annual report for the reporting period
1345 of July 1 through June 30th to the director by the annual anniversaries of the date of coverage
1346 under this permit the following October 1. The reports ~~must~~ shall include:

1347 a. The status of compliance with permit conditions, an assessment of the appropriateness of the
1348 identified best management practices and progress towards achieving the identified measurable
1349 goals for each of the minimum control measures;

1350 b. Results of information collected and analyzed, including monitoring data, if any, during the
1351 reporting period;

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- 1352 c. A summary of the stormwater activities the permittee operator plans to undertake during the
1353 next reporting cycle;
- 1354 d. A change in any identified best management practices or measurable goals for any of the
1355 minimum control measures;
- 1356 e. Notice that the permittee operator is relying on another government entity to satisfy some of
1357 the permit obligations (if applicable), ~~and~~
- 1358 f. The approval status of any ~~qualifying local~~ programs pursuant to Section II C (if appropriate),
1359 or the progress towards achieving full approval of these programs.;
- 1360 g. Information required pursuant to Section I.B.10.
- 1361 g. The number of illicit discharges identified and the number eliminated pursuant to Section
1362 II.B.3.f.;
- 1363 h. Regulated land disturbing activities data tracked under Section II.B.4.c; and
- 1364 i. All known permanent stormwater management facility data tracked under Section II.B.5.b.(6)
1365 submitted in a database format to be prescribed by the Department. Upon filing of this list,
1366 subsequent reports shall only include those new stormwater management facilities that have been
1367 brought on line.
- 1368 j. A list of any new or terminated signed agreements between the operator and any applicable
1369 third parties where the operator has entered into an agreement in order to implement minimum
1370 control measures or portions of minimum control measures.
- 1371 F. Program Plan modifications. The ~~department~~ board may require modifications to the
1372 ~~Stormwater Management MS4 Program Plan~~ as needed to address adverse impacts on receiving
1373 surface water quality caused, or contributed to, by discharges from the regulated small MS4.
1374 Modifications ~~requested~~ required by the ~~department~~ board shall be made in writing and set forth
1375 the time schedule to develop and implement the modification. The permittee operator may
1376 propose alternative program modifications and time schedules to meet the objective of the
1377 ~~requested~~ required modification. The ~~department~~ board retains the authority to require any
1378 modifications it determines are necessary.
- 1379 SECTION III
- 1380 CONDITIONS APPLICABLE TO ALL VSMP PERMITS
- 1381 ~~NOTE: Monitoring is not required for this permit. If you choose to monitor your stormwater~~
1382 ~~discharges or BMP's in support of your Stormwater Management Program, you must comply~~
1383 ~~with the requirements of subsections A, B, and C, as appropriate.~~
- 1384 A. Monitoring.

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1385 1. Samples and measurements taken for the purpose of monitoring shall be representative of the
1386 monitored activity.

1387 2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136
1388 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless
1389 other procedures have been specified in this permit.

1390 3. The ~~permittee~~ operator shall periodically calibrate and perform maintenance procedures on all
1391 monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

1392 B. Records.

1393 1. ~~Records of monitoring information~~ Monitoring records/ reports shall include:

1394 a. The date, exact place, and time of sampling or measurements;

1395 b. The individual(s) who performed the sampling or measurements;

1396 c. The date(s) and time(s) analyses were performed;

1397 d. The individual(s) who performed the analyses;

1398 e. The analytical techniques or methods used; and

1399 f. The results of such analyses.

1400 2. The ~~permittee~~ operator shall retain records of all monitoring information, including all
1401 calibration and maintenance records and all original strip chart recordings for continuous
1402 monitoring instrumentation, copies of all reports required by this permit, and records of all data
1403 used to complete the registration statement for this permit, for a period of at least three years
1404 from the date of the sample, measurement, report or request for coverage. This period of
1405 retention shall be extended automatically during the course of any unresolved litigation regarding
1406 the regulated activity or regarding control standards applicable to the ~~permittee~~ operator, or as
1407 requested by the board.

1408 C. Reporting monitoring results.

1409 1. The ~~permittee~~ operator shall submit the results of the monitoring required by this permit ~~not~~
1410 ~~later than the 10th day of the month after monitoring takes place, with the annual report unless~~
1411 another reporting schedule is specified elsewhere in this permit. ~~Monitoring results shall be~~
1412 ~~submitted to the department's Urban Program's Section of the Division of Soil and Water~~
1413 ~~Conservation.~~

1414 2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms
1415 provided, approved or specified by the department.

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1416 3. If the permittee operator monitors any pollutant specifically addressed by this permit more
1417 frequently than required by this permit using test procedures approved under 40 CFR Part 136
1418 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or
1419 using procedures specified in this permit, the results of this monitoring shall be included in the
1420 calculation and reporting of the data submitted in the DMR or reporting form specified by the
1421 department.

1422 4. Calculations for all limitations that require averaging of measurements shall utilize an
1423 arithmetic mean unless otherwise specified in this permit.

1424 D. Duty to provide information. The permittee operator shall furnish to the department, within a
1425 reasonable time, any information that the board may request to determine whether cause exists
1426 for modifying, revoking and reissuing, or terminating this permit or to determine compliance
1427 with this permit. The board may require the permittee operator to furnish, upon request, such
1428 plans, specifications, and other pertinent information as may be necessary to determine the effect
1429 of the wastes from his discharge on the quality of state waters, or such other information as may
1430 be necessary to accomplish the purposes of the CWA and Virginia Stormwater Management Act.
1431 The permittee operator shall also furnish to the department upon request, copies of records
1432 required to be kept by this permit.

1433 E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress
1434 reports on, interim and final requirements contained in any compliance schedule of this permit
1435 shall be submitted no later than 14 days following each schedule date.

1436 F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by
1437 the board or State Water Control Board, it shall be unlawful for any person to:

1438 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or
1439 deleterious substances; or

1440 2. Otherwise alter the physical, chemical or biological properties of such state waters and make
1441 them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for
1442 domestic or industrial consumption, or for recreation, or for other uses.

1443 G. Reports of unauthorized discharges. Any permittee operator of a regulated small MS4 who
1444 discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any
1445 noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in
1446 excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part
1447 117 (2002) or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon state
1448 waters in violation of Section III F; or who discharges or causes or allows a discharge that may
1449 reasonably be expected to enter state waters in violation of Section III F, shall notify the
1450 Department of Environmental Quality ~~and the Department of Conservation and Recreation~~ of the
1451 discharge immediately upon discovery of the discharge, but in no case later than 24 hours after
1452 said discovery. A written report of the unauthorized discharge shall be submitted to the
1453 Department of Environmental Quality and the Department of Conservation and Recreation,
1454 within five days of discovery of the discharge. The written report shall contain:

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- 1455 1. A description of the nature and location of the discharge;
- 1456 2. The cause of the discharge;
- 1457 3. The date on which the discharge occurred;
- 1458 4. The length of time that the discharge continued;
- 1459 5. The volume of the discharge;
- 1460 6. If the discharge is continuing, how long it is expected to continue;
- 1461 7. If the discharge is continuing, what the expected total volume of the discharge will be; and
- 1462 8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present
1463 discharge or any future discharges not authorized by this permit.
- 1464 Discharges reportable to the Department of Environmental Quality and the Department of
1465 Conservation and Recreation under the immediate reporting requirements of other regulations
1466 are exempted from this requirement.
- 1467 H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge
1468 including a bypass or upset should occur from a facility and the discharge enters or could be
1469 expected to enter state waters, the permittee operator shall promptly notify, in no case later than
1470 24 hours, the Department of Environmental Quality and the Department of Conservation and
1471 Recreation by telephone after the discovery of the discharge. This notification shall provide all
1472 available details of the incident, including any adverse affects on aquatic life and the known
1473 number of fish killed. The permittee operator shall reduce the report to writing and shall submit
1474 it to the Department of Environmental Quality and the Department of Conservation and
1475 Recreation within five days of discovery of the discharge in accordance with Section III I 2.
1476 Unusual and extraordinary discharges include but are not limited to any discharge resulting from:
- 1477 1. Unusual spillage of materials resulting directly or indirectly from processing operations;
- 1478 2. Breakdown of processing or accessory equipment;
- 1479 3. Failure or taking out of service some or all of the facilities; and
- 1480 4. Flooding or other acts of nature.
- 1481 I. Reports of noncompliance. The permittee operator shall report any noncompliance which may
1482 adversely affect state waters or may endanger public health.
- 1483 1. An oral report shall be provided within 24 hours from the time the permittee operator becomes
1484 aware of the circumstances. The following shall be included as information, ~~that~~ which shall be
1485 reported within 24 hours under this paragraph:

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- 1486 a. Any unanticipated bypass; and
- 1487 b. Any upset which causes a discharge to surface waters.
- 1488 2. A written report shall be submitted within five days and shall contain:
- 1489 a. A description of the noncompliance and its cause;
- 1490 b. The period of noncompliance, including exact dates and times, and if the noncompliance has
- 1491 not been corrected, the anticipated time it is expected to continue; and
- 1492 c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- 1493 The board or its designee may waive the written report on a case-by-case basis for reports of
- 1494 noncompliance under Section III I if the oral report has been received within 24 hours and no
- 1495 adverse impact on state waters has been reported.
- 1496 3. The permittee operator shall report all instances of noncompliance not reported under Sections
- 1497 III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall
- 1498 contain the information listed in Section III I 2.
- 1499 NOTE: The immediate (within 24 hours) reports required in Sections III G, H and I may be made
- 1500 ~~to the department's Urban Program's Section of the Division of Soil and Water Conservation~~
- 1501 appropriate Department of Environmental Quality's Regional Office Pollution Response
- 1502 Program as found at <http://www.deq.virginia.gov/prep/homepage.html#>. Reports may be made
- 1503 by telephone or by fax. For reports outside normal working hours, leave a message and this shall
- 1504 fulfill the immediate reporting requirement. For emergencies, the Virginia Department of
- 1505 Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.
- 1506 4. Where the permittee operator becomes aware ~~that it failed~~ of a failure to submit any relevant
- 1507 facts in a permit application, or submitted incorrect information in a permit application or in any
- 1508 report to the department or the Department of Environmental Quality, it shall promptly submit
- 1509 such facts or information.
- 1510 J. Notice of planned changes.
- 1511 1. The permittee operator shall give notice to the department as soon as possible of any planned
- 1512 physical alterations or additions to the permitted facility. Notice is required only when:
- 1513 a. The permittee operator plans alteration or addition to any building, structure, facility, or
- 1514 installation from which there is or may be a discharge of pollutants, the construction of which
- 1515 commenced:
- 1516 (1) After promulgation of standards of performance under §306 of Clean Water Act that are
- 1517 applicable to such source; or

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1518 (2) After proposal of standards of performance in accordance with §306 of Clean Water Act that
1519 are applicable to such source, but only if the standards are promulgated in accordance with §306
1520 within 120 days of their proposal;

1521 b. The operator plans alteration or addition that would significantly change the nature or
1522 increase the quantity of pollutants discharged. This notification applies to pollutants that are not
1523 subject to effluent limitations in this permit; or

1524 2. The ~~permittee~~ operator shall give advance notice to the department of any planned changes in
1525 the permitted facility or activity; ~~that~~ which may result in noncompliance with permit
1526 requirements.

1527 K. Signatory requirements.

1528 1. Registration statement. All registration statements shall be signed as follows:

1529 a. For a corporation: by a responsible corporate officer. For the purpose of this subsection, a
1530 responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the
1531 corporation in charge of a principal business function, or any other person who performs similar
1532 policy- or decision-making functions for the corporation, or (ii) the manager of one or more
1533 manufacturing, production, or operating facilities, provided the manager is authorized to make
1534 management decisions which govern the operation of the regulated facility including having the
1535 explicit or implicit duty of making major capital investment recommendations, and initiating and
1536 directing other comprehensive measures to assure long term environmental compliance with
1537 environmental laws and regulations; the manager can ensure that the necessary systems are
1538 established or actions taken to gather complete and accurate information for permit application
1539 requirements; and where authority to sign documents has been assigned or delegated to the
1540 manager in accordance with corporate procedures;

1541 b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

1542 c. For a municipality, state, federal, or other public agency: By either a principal executive
1543 officer or ranking elected official. For purposes of this subsection, a principal executive officer
1544 of a public agency includes:

1545 (1) The chief executive officer of the agency, or

1546 (2) A senior executive officer having responsibility for the overall operations of a principal
1547 geographic unit of the agency.

1548 2. Reports, etc. All reports required by permits, and other information requested by the board
1549 shall be signed by a person described in Section III K 1, or by a duly authorized representative of
1550 that person. A person is a duly authorized representative only if:

1551 a. The authorization is made in writing by a person described in Section III K 1;

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- 1552 b. The authorization specifies either an individual or a position having responsibility for the
1553 overall operation of the regulated facility or activity such as the position of plant manager,
1554 operator of a well or a well field, superintendent, position of equivalent responsibility, or an
1555 individual or position having overall responsibility for environmental matters for the ~~company~~
1556 operator (A duly authorized representative may thus be either a named individual or any
1557 individual occupying a named position.); and
- 1558 c. The written authorization is submitted to the department.
- 1559 3. Changes to authorization. If an authorization under Section III K 2 is no longer accurate
1560 because a different individual or position has responsibility for the overall operation of the
1561 facility, a new authorization satisfying the requirements of Section III K 2 shall be submitted to
1562 the department prior to or together with any reports, or information to be signed by an authorized
1563 representative.
- 1564 4. Certification. Any person signing a document under Sections III K 1 or 2 shall make the
1565 following certification:
- 1566 "I certify under penalty of law that this document and all attachments were prepared under my
1567 direction or supervision in accordance with a system designed to assure that qualified personnel
1568 properly gather and evaluate the information submitted. Based on my inquiry of the person or
1569 persons who manage the system, or those persons directly responsible for gathering the
1570 information, the information submitted is, to the best of my knowledge and belief, true, accurate,
1571 and complete. I am aware that there are significant penalties for submitting false information,
1572 including the possibility of fine and imprisonment for knowing violations."
- 1573 L. Duty to comply. The ~~permittee~~ operator shall comply with all conditions of this permit. Any
1574 permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and
1575 the Clean Water Act, except that noncompliance with certain provisions of this permit may
1576 constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act.
1577 Permit noncompliance is grounds for enforcement action; for permit termination, revocation and
1578 reissuance, or modification; or denial of a permit renewal application.
- 1579 The ~~permittee~~ operator shall comply with effluent standards or prohibitions established under
1580 §307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations
1581 that establish these standards or prohibitions or standards for sewage sludge use or disposal, even
1582 if this permit has not yet been modified to incorporate the requirement.
- 1583 M. Duty to reapply. If the ~~permittee~~ operator wishes to continue an activity regulated by this
1584 permit after the expiration date of this permit, the ~~permittee~~ operator shall submit a new
1585 registration statement at least 90 days before the expiration date of the existing permit, unless
1586 permission for a later date has been granted by the board. The board shall not grant permission
1587 for registration statements to be submitted later than the expiration date of the existing permit.

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- 1588 N. Effect of a permit. This permit does not convey any property rights in either real or personal
1589 property or any exclusive privileges, nor does it authorize any injury to private property or
1590 invasion of personal rights, or any infringement of federal, state or local law or regulations.
- 1591 O. State law. Nothing in this permit shall be construed to preclude the institution of any legal
1592 action under, or relieve the permittee operator from any responsibilities, liabilities, or penalties
1593 established pursuant to any other state law or regulation or under authority preserved by §510 of
1594 the Clean Water Act. Except as provided in permit conditions on "bypassing" (Section III U),
1595 and "upset" (Section III V) nothing in this permit shall be construed to relieve the permittee
1596 operator from civil and criminal penalties for noncompliance.
- 1597 P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the
1598 institution of any legal action or relieve the permittee operator from any responsibilities,
1599 liabilities, or penalties to which the permittee operator is or may be subject under §§62.1-
1600 44.34:14 through 62.1-44.34:23 of the State Water Control Law.
- 1601 Q. Proper operation and maintenance. The permittee operator shall at all times properly operate
1602 and maintain all facilities and systems of treatment and control (and related appurtenances) ~~that~~
1603 which are installed or used by the permittee operator to achieve compliance with the conditions
1604 of this permit. Proper operation and maintenance also includes effective plant performance,
1605 adequate funding, adequate staffing, and adequate laboratory and process controls, including
1606 appropriate quality assurance procedures. This provision requires the operation of back-up or
1607 auxiliary facilities or similar systems, which ~~that~~ are installed by the permittee operator only
1608 when the operation is necessary to achieve compliance with the conditions of this permit.
- 1609 R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of
1610 treatment or management of pollutants shall be disposed of in a manner so as to prevent any
1611 pollutant from such materials from entering state waters.
- 1612 S. Duty to mitigate. The permittee operator shall take all reasonable steps to minimize or prevent
1613 any discharge in violation of this permit that has a reasonable likelihood of adversely affecting
1614 human health or the environment.
- 1615 T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee operator
1616 in an enforcement action that it would have been necessary to halt or reduce the permitted
1617 activity in order to maintain compliance with the conditions of this permit.
- 1618 U. Bypass.
- 1619 1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment
1620 facility. The permittee operator may allow any bypass to occur ~~that~~ which does not cause effluent
1621 limitations to be exceeded, but only if it also is for essential maintenance to assure efficient
1622 operation. These bypasses are not subject to the provisions of Sections III U 2 and U 3.
- 1623 2. Notice.

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1624 a. Anticipated bypass. If the permittee operator knows in advance of the need for a bypass, prior
1625 notice shall be submitted, if possible at least 10 days before the date of the bypass.

1626 b. Unanticipated bypass. The permittee operator shall submit notice of an unanticipated bypass
1627 as required in Section III I.

1628 3. Prohibition of bypass.

1629 a. Bypass is prohibited, and the board or its designee may take enforcement action against a
1630 permittee operator for bypass, unless:

1631 (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

1632 (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment
1633 facilities, retention of untreated wastes, or maintenance during normal periods of equipment
1634 downtime. This condition is not satisfied if adequate back-up equipment should have been
1635 installed in the exercise of reasonable engineering judgment to prevent a bypass ~~that~~ which
1636 occurred during normal periods of equipment downtime or preventive maintenance; and

1637 (3) The permittee operator submitted notices as required under Section III U 2.

1638 b. The board or its designee may approve an anticipated bypass, after considering its adverse
1639 effects, if the board determines that it will meet the three conditions listed above in Section III U
1640 3 a.

1641 V. Upset.

1642 1. An upset constitutes an affirmative defense to an action brought for noncompliance with
1643 technology based permit effluent limitations if the requirements of Section III V 2 are met. A
1644 determination made during administrative review of claims that noncompliance was caused by
1645 upset, and before an action for noncompliance, is not a final administrative action subject to
1646 judicial review.

1647 2. A permittee operator who wishes to establish the affirmative defense of upset shall
1648 demonstrate, through properly signed, contemporaneous operating logs, or other relevant
1649 evidence that:

1650 a. An upset occurred and that the permittee operator can identify the cause(s) of the upset;

1651 b. The permitted facility was at the time being properly operated;

1652 c. The permittee operator submitted notice of the upset as required in Section III I; and

1653 d. The permittee operator complied with any remedial measures required under Section III S.

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- 1654 3. In any enforcement proceeding the permittee operator seeking to establish the occurrence of
1655 an upset has the burden of proof.
- 1656 W. Inspection and entry. The permittee operator shall allow the director as the board's designee,
1657 or an authorized representative (including an authorized contractor acting as a representative of
1658 the administrator), upon presentation of credentials and other documents as may be required by
1659 law, to:
- 1660 1. Enter upon the permittee's operator's premises where a regulated facility or activity is located
1661 or conducted, or where records must be kept under the conditions of this permit;
- 1662 2. Have access to and copy, at reasonable times, any records that must be kept under the
1663 conditions of this permit;
- 1664 3. Inspect at reasonable times any facilities, equipment (including monitoring and control
1665 equipment), practices, or operations regulated or required under this permit; and
- 1666 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as
1667 otherwise authorized by the Clean Water Act and the Virginia Stormwater Management Act, any
1668 substances or parameters at any location.
- 1669 For purposes of this subsection, the time for inspection shall be deemed reasonable during
1670 regular business hours, and whenever the facility is discharging. Nothing contained herein shall
1671 make an inspection unreasonable during an emergency.
- 1672 X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The
1673 filing of a request by the permittee operator for a permit modification, revocation and reissuance,
1674 or termination, or a notification of planned changes or anticipated noncompliance does not stay
1675 any permit condition.
- 1676 Y. Transfer of permits.
- 1677 1. Permits are not transferable to any person except after notice to the department. Except as
1678 provided in Section III Y 2, a permit may be transferred by the permittee operator to a new
1679 owner or operator only if the permit has been modified or revoked and reissued, or a minor
1680 modification made, to identify the new permittee operator and incorporate such other
1681 requirements as may be necessary under the Virginia Stormwater Management Act and the
1682 Clean Water Act.
- 1683 2. As an alternative to transfers under Section III Y 1, this permit may be automatically
1684 transferred to a new permittee operator if:
- 1685 a. The current permittee operator notifies the department at least two days in advance of the
1686 proposed transfer of the title to the facility or property;

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- 1687 b. The notice includes a written agreement between the existing and new permittees-operators
1688 containing a specific date for transfer of permit responsibility, coverage, and liability between
1689 them; and
- 1690 c. The board does not notify the existing permittee operator and the proposed new permittee
1691 operator of its intent to modify or revoke and reissue the permit. If this notice is not received, the
1692 transfer is effective on the date specified in the agreement mentioned in Section III Y 2 b.
- 1693 Z. Severability. The provisions of this permit are severable, and if any provision of this permit or
1694 the application of any provision of this permit to any circumstance is held invalid, the application
1695 of such provision to other circumstances, and the remainder of this permit, shall not be affected
1696 thereby.
- 1697 FORMS
- 1698 Application Form 1-General Information, Consolidated Permits Program, EPA Form 3510-1
1699 (June 1980) (DCR 199-149).
- 1700 Department of Conservation and Recreation Permit Application Fee Form, (DCR 199-145)
1701 (09/04).
- 1702 VSMP General Permit Registration Statement for Construction Activity Stormwater Discharges,
1703 (DCR01), (DCR 199-146) (09/04).
- 1704 VSMP General Permit Notice of Termination for Construction Activity Stormwater Discharges,
1705 (DCR01), (DCR 199-147) (09/04).
- 1706 VSMP General Permit Registration Statement for Stormwater Discharges From Small Municipal
1707 Separate Storm Sewer Systems (DCR02), (DCR 199-148) (09/04 07/08)
- 1708 Editor's Note
- 1709 In 21:10 VA.R. 1231 January 24, 2005, the Virginia Soil and Water Conservation Board noticed
1710 the EPA approval of the enactment found in 21:3 VA.R. 317 October 18, 2004, via a letter dated
1711 December 30, 2004 from Donald S. Welsh, Regional Administrator, EPA Region 3 to The
1712 Honorable W. Tayloe Murphy, Jr., Secretary of Natural Resources. The effective date of the
1713 enactment, following this approval, is January 29, 2005.